

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

J. MICHAEL CHARLES, MAURICE W. WARD, JR., and JOSEPH I. FINK, JR., on behalf of themselves and all others similarly situated,	:	
	:	CIVIL ACTION
Plaintiffs,	:	
v.	:	NO. 05-00702 (SLR)
	:	
PEPCO HOLDINGS, INC., CONECTIV, and PEPCO HOLDINGS RETIRMENT PLAN,	:	
	:	
Defendants.	:	

**SECOND STIPULATION AND PROPOSED ORDER MODIFYING
SCHEDULE FOR BRIEFING ON SUMMARY JUDGMENT MOTIONS**

WHEREAS, the parties, through counsel, hereby stipulate and request that the Court order that the briefing schedule entered on March 5, 2007 (D.I. 81) and first modified on June 12, 2007 (D.I. 91) be amended to provide that the combined reply brief in support of Defendants' motion for summary judgment / answering brief in opposition to Plaintiffs' cross-motion for summary judgment is to be filed on or before August 3, 2007 (as opposed to July 19, 2007), and that the reply brief in support of Plaintiffs' cross-motion for summary judgment is to be filed on or before September 4, 2007 (as opposed to August 20, 2007).

WHEREAS, on March 5, 2007, the Court entered an order setting a briefing schedule for Defendants' motion for summary judgment and Plaintiffs' cross-motion for summary judgment (D.I. 81). At that time, briefing was to be completed by August 13, 2007.

WHEREAS, on May 1, 2007, Defendants filed a motion for summary judgment and a corresponding opening brief (D.I. 87, 88).

WHEREAS, on June 12, 2007, the Court entered an order approving the parties stipulation to amend the schedule for briefing on motions for summary judgment (D.I. 91). The amended schedule provided that the combined reply brief in support of Defendants' motion for summary judgment / answering brief in opposition to Plaintiffs' cross-motion for summary judgment was to be filed on or before July 19, 2007 and that the reply brief in support of Plaintiffs' cross-motion for summary judgment was to be filed on or before August 20, 2007.

WHEREAS, on June 19, 2007, Plaintiffs filed their combined answering brief in opposition to Defendants' motion for summary judgment / opening brief in support of Plaintiffs' cross-motion for summary judgment (D.I. 93).

WHEREAS, Plaintiffs and Defendants were unable to schedule the deposition of Plaintiffs' expert until July 27, 2007, eight days after the combined reply brief in support of Defendants' motion for summary judgment / answering brief in opposition to Plaintiffs' cross-motion for summary judgment is currently scheduled to be filed. Defendants intend to elicit testimony at the July 27 deposition which is directly relevant to briefing and the determination of the pending motions for summary judgment. Accordingly, the parties have stipulated and hereby request that the Court modify the briefing schedule to allow for the deposition of Plaintiffs' expert and the passing of a reasonable time thereafter prior to any additional briefing. The parties believe that the requested modification to the briefing schedule will assist the Court and expedite the final resolution of this matter

NOW THEREFORE, the parties hereby stipulate and agree, subject to Court approval, as follows:

1. Defendants shall file their combined reply brief in support of their motion for summary judgment / answering brief in opposition to Plaintiffs' cross-motion for summary

judgment on or before August 3, 2007. To the extent that Defendants rely upon additional expert evidence in connection with their reply / answering brief, they shall furnish the disclosures required with respect to their experts under Fed. R. Civ. P. 26(a)(2) contemporaneously with their reply / answering brief.

2. Plaintiffs shall file their reply brief in support of their cross-motion for summary judgment on or before September 4, 2007. To the extent that Plaintiffs rely upon additional expert evidence in connection with their reply brief, they shall furnish the disclosures required with respect to their experts under Fed. R. Civ. P. 26(a)(2) contemporaneously with their reply brief.

AGREED TO ON JULY 12, 2007 BY:

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SO ORDERED this _____ day of _____ 2007

Judge Sue L. Robinson